



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/165969

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on June 30, 2015, at Port Washington, Wisconsin.

The issue for determination is whether the agency correctly sought to discontinue Petitioner's Include, Respect, I Self Direct (IRIS) eligibility because of mismanagement of IRIS funds.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Carrie Haugen

Bureau of Long-Term Support
1 West Wilson
Madison, WI

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Ozaukee County. Petitioner has been eligible for the Include, Respect, I Self Direct IRIS program. She lives with her family with her mother being the paid caregiver.
2. Petitioner was sent a notice that informed her that she was to be disenrolled from the Include, Respect, I Self Direct (IRIS) program effective May 9, 2015. The date of the notice was April 24, 2015. Petitioner timely appealed.

3. The reason for the disenrollment was that Petitioner's mother, her caregiver, was determined to have fraudulently billed the IRIS program for services that she could not have provided.
4. A Fraudulent Allegation Review Assessment (FARA) inquiry was initiated in August 2014. Review of the billing documentation for Petitioner revealed that Petitioner's mother had claimed 24 hours a day of supportive home care and self-directed personal care services between June 15, 2014 and June 30, 2014 and that she had been claiming 24 hours per day of care on many of her timesheets back to 2013. Further, Petitioner attended eight weeks of summer camp in the summer of 2014 split between two different sessions. During those periods Petitioner's mother billed the IRIS program for 18 to 24 hours a day of supportive homecare services and self-directed person cares. Petitioner's mother has billed for care while Petitioner is in the school.
5. Petitioner's mother has been offered the opportunity to submit corrected timesheets. She has declined to do so.
6. Petitioner's mother has been provided with training concerning appropriate billing practices. The FARA review has determined that there is at least \$10,000 overpayment. To the date of the notice of discontinuance, in 2015 Petitioner's mother had billed the IRIS program for an average of 589 hours per month or 19.36 hours per day for services provided to her daughter.

DISCUSSION

The IRIS program was developed pursuant to a Medicaid waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed personal care program. IRIS policies are found online at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>.

The agency in this case cited IRIS Policy 3.03.1, dated October 1, 2011 for its action to disenroll Petitioner. The policy is not at the web sites cited above and below, but a copy of the policy was included in the agency's hearing package. That policy provides that a participant may be disenrolled when there is possible fraud or misrepresentation or willful inaccurate reporting of services. There is a more recent policy at §10.1A.1, No. 18 of the *IRIS Policy Manual: Work Instructions (updated monthly)*, found at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>. This policy calls for involuntary disenrollment in cases of substantiated fraud. If the activity is unsubstantiated fraud or abuse of the program, there are a number of actions that can be taken but not disenrollment.

As the events that occurred here were in 2013-14 and the agency has applied the older policy, I will use that here also.

Petitioner's mother's contends, in essence, that her entire life revolves around the constant cares she provides for her daughter. Thus she argues that she has not overbilled the program. She declines to resubmit bills as she contends she cannot go back in time and provide any more accurate records.

I am satisfied that the agency has demonstrated overbilling of the IRIS program in this case. Clearly Petitioner's mother has claimed to have worked more hours than possible. This is either a misrepresentation or a willful inaccurate reporting of services. While Petitioner's family's life is certainly challenged, does not mean that IRIS program funds could be used with the abandon apparent here. I conclude that the agency disenrollment of Petitioner was justified.

I note here that disenrollment from IRIS does not necessarily mean that Petitioner is ineligible for future IRIS enrollment or other Medicaid services. For example, Petitioner may apply for Family Care or another program that does not include self-directed services but instead has more involvement from

agency case managers to make certain that services are provided and paid for. The IRIS agency can assist with the transition.

CONCLUSIONS OF LAW

The IRIS agency correctly sought to disenroll Petitioner from the program due to intentional mismanagement of funds by Petitioner's guardian.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

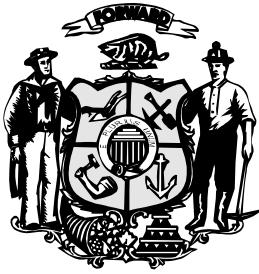
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of August, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 10, 2015.

Bureau of Long-Term Support